

UNITED VENTURES

IBLA 83-511

Decided June 24, 1983

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer, NM 54201.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Applications: Attorney-in-Fact or Agents

An offer submitted by an agent for the first-drawn applicant under the simultaneous filing program which is not rendered in such a manner as to reveal the name of the potential lessee, the name of the signatory, and their relationship, is properly rejected.

2. Notice: Generally -- Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

3. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: First-Qualified Applicant

An offer by the first-drawn applicant of a simultaneous filing procedure drawing is not curable by submission of the required material after the period for such submission has expired, for the reason that the rights of the second- and third-drawn applicants have intervened.

APPEARANCES: Alan R. Rexius, partner, for appellant; Suzette C. Chafin, Esq., Department Counsel, Southwest Region, Office of the Solicitor, Department of the Interior, for Bureau of Land Management.

## OPINION BY ADMINISTRATIVE JUDGE STUEBING

United Ventures, a partnership, appeals from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated March 3, 1983, rejecting oil and gas lease offer, NM 54201, for failure to submit a properly completed lease offer form.

Appellant was notified by BLM in a notice dated December 6, 1982, that its application for parcel NM 105 in the August 1982 drawing was selected with first priority. Subsequently, appellant timely filed the requisite lease offer forms, lease stipulations forms, and advance rental payment with BLM on January 3, 1983. However, the lease offer and stipulations forms were signed "Alan R. Rexius" with no attached explanation or reference identifying the signatory. BLM rejected the lease offer, NM 54201, in its March 3, 1983, decision for failure to comply with 43 CFR 3102.4, which provides that an offer be rendered in such manner that the relationship of the signatory, if other than the offeror, is disclosed.

Appellant states that it failed to comply with the regulatory requirement because it was unaware of proper procedures. Additionally, it alleges that prior to filing this offer it has not been required to reveal such relationship on other documents. Appellant requests reinstatement of its offer after it is afforded an opportunity to amend the signature to conform with the regulations. It has filed with its appeal documents which are intended to show that Alan R. Rexius is authorized to represent the partnership. 1/

[1] An attorney-in-fact may sign the lease offer forms of a first priority applicant. 43 CFR 3112.4-1(b). However, 43 CFR 3112.4-1(b) also provides:

Any attorney-in-fact signing a lease offer or paying the first year's rental on behalf of the prospective lessee shall file, together with the offer and/or rental, a copy of his/her power of attorney or reference to the serial number under which such authorization is filed over the personal handwritten signature of the prospective lessee in ink.

43 CFR 3102.4, quoted in the decision, reads in part: "Documents signed by anyone other than the potential lessee shall be rendered in a manner to reveal the name of the potential lessee, the name of the signatory and their relationship. (Example: John Smith, agent for Mary Jones; or ABC Corporation, agent for Mary Jones by John Smith.)"

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1/ The first document is signed and dated Dec. 22, 1980, but authorizes Alan R. Rexius to represent Scipro, Ltd. The second document, origin and purpose unidentified, lists parties in interest of United Ventures and declares Alan R. Rexius as the authorized representative. However, no signatures granting that authority appear thereon. Although partners are generally deemed to be agents for the partnership in partnership matters, 68 C.J.S. Partnership § 136 (1950), nowhere in the record is Alan R. Rexius identified and established as a partner.

In Hercules (A Partnership), 67 IBLA 151 (1982), when construing 43 CFR 3112.2-1(b), a regulatory requirement similar in language and identical in purpose to 3102.4, the Board held that this regulatory requirement was satisfied where the application, not just the signature, reveals the relationship between the signatory and the principal. However, no such explanation was provided nor does the information required in 43 CFR 3112.4-1(b) appear on the other forms submitted by appellant or in BLM's record. The simultaneous filing application did not even reference a qualifications file where the opportunity to do so was provided. The nature of Rexius' relationship to appellant was not disclosed until the appeal had been brought.

[2] Appellant's statement that it was unaware of proper procedures is of no avail. All persons who deal with the Government are presumed to have knowledge of the law and regulations duly promulgated thereunder. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Nicholas J. Murphy, 71 IBLA 368 (1983). The directives of the regulations are clear. An agent for an offeror must render the offer in such manner as to reveal the relationship between the parties. An offer from the first-drawn applicant under the simultaneous filing program which does not comply with 43 CFR Subpart 3102 is properly rejected. See 43 CFR 3112.6-2; 43 CFR 3112.2-3. Moreover, the application of the first-qualified applicant is properly rejected where the offer is not filed in accordance with 43 CFR 3112.4-1. See 43 CFR 3112.6-1(d).

[3] Appellant requests an opportunity to cure its offer. That right does not exist with respect to a lease offer filed pursuant to the simultaneous filings program. A noncompetitive oil and gas lease may be issued only to the first-qualified applicant. 30 U.S.C. § 226(c) (1976); McKay v. Wahlenmaier, 226 F.2d 35 (D.C. Cir. 1955). Providing an unqualified first-drawn applicant the opportunity to make an amended offer, after the period for submission of the offer has expired, would infringe upon the rights of the second- and third-drawn applicants, which rights attach eo instante where the first-drawn applicant's offer is unacceptable. See Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976); accord Moss v. Andrus, Civ. No. 78-1050 (10th Cir., Sept. 20, 1978).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision is affirmed.

Edward W. Stuebing  
Administrative Judge

We concur:

R. W. Mullen  
Administrative Judge

Gail M. Frazier  
Administrative Judge